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RECENT DECISIONS

ADMIRALTY—JURISDICTION—WORKMEN'S COMPENSATION LAW.—The libellant was injured while engaged in repair work of non-maritime character on a partially completed vessel lying in navigable water. He brought an action in admiralty, alleging negligence of the respondent company. A Workmen's Compensation Act covered the libellant's employment and provided that in the absence of notice by the parties that they did not wish to come under the Act, it would apply. The parties had indicated a desire to accept it. The remedy under the statute was exclusive. *Held*, relief in admiralty refused. *Grant Smith-Porter Ship Co. v. Rhode* (1922) 42 Sup. Ct. 157.

The United States Supreme Court held the New York Workmen's Compensation Act invalid as applied to one engaged in maritime work; the remedy under the Act not being one saved to suitors from the exclusive admiralty jurisdiction of the federal courts by the "saving clause" of the Judiciary Act of 1789. *Southern Pacific Co. v. Jensen* (1917) 244 U. S. 205, 37 Sup. Ct. 524. An amendment to the "saving clause" allowing remedies under the state Compensation Law was held unconstitutional when applied to one killed in maritime service where admiralty had jurisdiction. *Knickerbocker Ice Co. v. Stewart* (1920) 253 U. S. 149, 40 Sup. Ct. 438. The instant case limits the doctrine laid down in the preceding cases. Admiralty would ordinarily have had jurisdiction. *Leathers v. Blessing* (1881) 105 U. S. 626; see *The Plymouth* (U. S. 1865) 3 Wall. 20, 33, 34. Yet in the instant case a Workmen's Compensation Act making an award under it an exclusive remedy was held to abrogate the right to recover damages in an admiralty court when neither the plaintiff's general employment nor his activities at the time of injury had any direct relation to navigation or commerce. The prior decisions were based primarily on the need for uniformity of admiralty law. The court in the instant case indicates a tendency to recede from the strict doctrine of those cases when the character of the work is not essentially maritime. Hence the need for uniformity is not so compelling.

BANKRUPTCY—EFFECT ON TAX CLAIMS—BARRING OF FEDERAL GOVERNMENT.—An income tax was due from the bankrupt to the United States prior to adjudication. The government filed no proof of claim. On motion and petition of the trustee, the United States was barred from participation in the estate. On appeal, *held*, order affirmed. *In the matter of Alma Anderson* (C. C. A. 2d Cir. 1922) 66 N. Y. L. J. 539.

This case raises the question of the effect of bankruptcy upon a federal claim for taxes. Claims for taxes are provable claims under the Bankruptcy Act of 1898. Courts ingeniously bring them within § 63(4) as quasi-contractual obligations. *Kaw Boiler Works v. Schull* (C. C. A. 1916) 230 Fed. 587. This interpretation is confirmed by § 17(1) of the Act. But they enjoy a peculiarly privileged position. They have priority over all other claims, but not over the actual and necessary expense of preserving and administering the estate. Bankruptcy Act § 64a; *State of New Jersey v. Lovell* (C. C. A. 1910) 179 Fed. 321; *In re Jacobson* (C. C. A. 1920) 263 Fed. 883. Furthermore a discharge in bankruptcy does not release the debtor from tax claims. Bankruptcy Act § 17(1). Again, though taxes are provable claims, the trustee is under a duty to pay them even if no proof of claim is filed. Bankruptcy Act § 64a; *Stanard v. Dayton* (C. C. A. 1915) 220